



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

January 24, 1991

Mr. Philip Barnes  
Commissioner  
State Board of Insurance  
1110 San Jacinto  
Austin, Texas 78701-1998

OR91-051

Dear Mr. Barnes:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10982.

We have considered the exception you claimed, specifically 3(a)(3), and have reviewed the documents you sent for our inspection. You say some of the files that are responsive to this request can not be located at this time. This ruling applies only to the documents we have been able to review.

Generally, the 3(a)(3) exception applies to information that relates to reasonably anticipated litigation that involves a governmental entity. Open Records Decision No. 551 (1990). This includes information gathered during an investigation of a licensee in anticipation of a hearing before the State Board of Insurance. See Open Records Decision No. 368 (1983). But where the records include information that the opposing party has already obtained, the section 3(a)(3) exception does not apply. Open Records Decision No. 349 (1982). Among the documents you sent for our review are an example of a letter notifying the agent of your intent to institute disciplinary action and a copy of a court order in another case involving the agent. You may withhold all of the information you sent for our review based on section 3(a)(3), except the copy of the letter to the agent, assuming it can be located, and the copy of the court order.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-051.

Yours very truly,



Kay H. Guajardo  
Assistant Attorney General  
Opinion Committee

KHG/le

Ref.: ID# 10982

Enclosure: Open Records Decision Nos. 551, 368

cc: Michael Proctor  
10227 MacArthur, Suite 268  
Irving, Texas 75063